

VII

Office of Personnel Management**§ 316.301**

The employee is eligible for repositioning in accordance with agency promotion policy.

(c) The agency must notify the employee in writing that he or she is being assigned in accordance with this section.

[49 FR 39287, Oct. 5, 1984, as amended at 60 FR 53505, Oct. 16, 1995]

§ 315.908 Appeals.

(a) An employee who, in accordance with the provisions of this subpart, is assigned to a nonmanagerial or non-supervisory position, has no appeal right.

(b) An employee who alleges that an agency action under this subpart was based on partisan political affiliation or marital status, may appeal to the Merit Systems Protection Board.

§ 315.909 Relationship to other actions.

(a) If an employee is required to concurrently serve both a probationary period under this subpart and a probationary period under subpart H of this part, the latter takes precedence and completion of the probationary period for competitive appointment and fulfills the requirements of this subpart.

(b) An action which demotes an employee to a lower grade than the one the employee left to accept the supervisory or managerial position, and an action against an employee for reasons other than supervisory or managerial performance, is governed by part 432 or part 752 procedures, whichever is applicable. If the employee believes an action under this subpart was based on improper discrimination or other prohibited practices under 5 U.S.C. 2302, he or she may appeal to the Merit Systems Protection Board or the Equal Employment Opportunity Commission, as appropriate.

PART 316—TEMPORARY AND TERM EMPLOYMENT**Subparts A–B [Reserved]****Subpart C—Term Employment**

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- 316.301 Purpose and duration.
- 316.302 Selection of term employees.
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316.601 Appointment without competitive examination in rare cases.

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316.701 Public or private enterprise taken over by Government.

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316.703 Effect on tenure of position change of status quo employees.

Subpart H [Reserved]

AUTHORITY: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

SOURCE: 33 FR 12423, Sept. 4, 1968, unless otherwise noted.

Subparts A–B [Reserved]**Subpart C—Term Employment**

EDITORIAL NOTE: Nomenclature changes to subpart C of part 316 appear at 70 FR 72067, Dec. 1, 2005.

§ 316.301 Purpose and duration.

(a) An agency may make a term appointment for a period of more than 1 year but not more than 4 years to positions where the need for an employee's services is not permanent. Reasons for making a term appointment include, but are not limited to: project work, extraordinary workload, scheduled abolishment, reorganization, contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization. Agencies may extend appointments made for more than

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Term Employment

Definition of term appointment

A term appointment is a no status appointment to a position in the competitive service for a specific period of more than one year but not more than four years.

Initial appointment

You may make a term appointment (5 CFR Part 316):

1. To fill a job that will last for more than one year, but not more than four years, where the need for an employee's services is not permanent; and
2. To meet an employment need that is time limited for reasons, such as:
 - ⌚ Need to complete a particular project,
 - ⌚ Extraordinary workload,
 - ⌚ Scheduled abolishment,
 - ⌚ Reorganization,
 - ⌚ Contracting out of the function,
 - ⌚ Uncertainty of future funding, or
 - ⌚ Need to maintain the position for future placement of other employees.

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Extension of term appointment

You may make an initial term appointment for a period of less than four years. If additional time is necessary, you may extend the appointment up to the four-year limit.

For extensions beyond the four-year time limit, you must submit a written request to OPM's HCLMSA Division identifying the reasons for an additional extension, and the additional time needed (5 CFR Part 316).

Term v. permanent appointment

Term appointments **do not** confer competitive status (5 CFR Part 316). Therefore, you may not select term employees for permanent appointments through merit promotion procedures unless they are eligible for non-competitive appointments using authorities listed in "How to Make Term Appointments." Absent such eligibility for non-competitive appointment, term employees like any

other employees may only be appointed when they are selected from a competitive

How to make term appointments

You may use both competitive and non-competitive examining procedures to fill term positions. For competitive examining procedures, you may use:

- 5 CFR Part 332 competitive procedures or
- 5 CFR Part 337 examining system.

For non-competitive examining procedures, you may use any of the following:

- Reinstatement under 5 CFR Part 315;
- Veterans Recruitment Appointment under 5 CFR Part 307;
- Career-conditional appointment under 5 CFR Part 315;
- Appointment of veterans with compensable service-connected disability of 30% or more under 5 U.S.C. § 3112;
- Appointment under 31 U.S.C. § 732(g) for current and former employees of the General Accounting Office;
- Appointment under 28 U.S.C. § 602 for current and former employees of the Administrative Office of the U.S. Courts;
- Reappointment on the basis of having left a term appointment prior to serving the four year maximum amount of time allowed under the appointment under 5 CFR Part 316; or
- Conversion in the same agency from a current temporary appointment when the employee is or was within reach on a certificate of eligibles for the term appointment at any time during service in the temporary job under 5 CFR Part 316.

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How to announce for a term job

The job announcement for a term position of less than four years should clearly state that the agency has the option of extending the appointment up to the four-year limit.

Where to find information on this topic

For additional information on Term Employment, see 5 CFR Part 316.

This is the chief sign of a new and modern purpose in civil service. The main object of the [REDACTED] civil service laws passed at the same time was to get rid of the [REDACTED]. Today, the idea is not just to avoid personnel changes for partisan reasons, but to get really efficient and capable people into the government service. Also, the administration of the civil service system has been vastly improved. We now refer to it as "personnel management."

How does the retirement system work?

Not until the Retirement Act of 1920 did the federal government provide for its superannuated employees. This act, as revised, provides for compulsory retirement of employees on reaching seventy years of age who have had at least fifteen years service in the government. An annuity is paid on retirement, toward which the government and the worker both contribute.

The benefit of the retirement system was revealed immediately upon passage of the act. In the first two months more than 5,000 employees retired. Some were over ninety years of age! And yet it took more than seventy years of agitation before the Retirement Act was passed, the first bill having been introduced in 1849! In the meantime, old and infirm employees were kept on the job because the departments did not want to thrust them out into poverty. Naturally, employees felt that their long years of service went unrewarded.

Workmen's compensation, as it is known in the factories, was introduced into the federal government services in 1916 when the Employees Compensation Act was passed. This provides compensation for injury or death incurred by a federal employee. It is administered in active service by a separate agency, the United States Employees Compensation Commission.

What is position-classification?

One of the early and ineffective civil service reforms was the "classification" made of certain federal positions by the act of 1853. As a matter of history, an act as early as 1795 provided that the department heads should vary salaries "in such a manner as the services to be performed shall, in their judgment, require." But Congress soon thereafter began to specify in appropriation acts the exact number of clerks in a department and the salaries to be paid them. In the end, there was neither standardization of titles nor equality of pay.

Many efforts were made at reform. Grant's Civil Service Commission appointed a committee on the subject in 1871. Every annual report of the present commission from 1902 on stressed the need for "equal pay for equal work." In 1907, President Theodore Roosevelt appointed the so-called "Keep Committee" which devised a position-classification system based on duties rather than salaries. In 1911 President Taft's Commission on Efficiency and Economy concluded a classification system was long overdue and in 1918 there was established a Division of Efficiency to carry out the instructions of Congress that a uniform system be established for rating the efficiency of federal employees. It was soon found that efficiency ratings could not be compared until positions were standardized.

Finally in 1919 Congress established the Job Classification Commission. Its report of 1920 revealed startling discrepancies in pay. An example is the job which the commission decided should be called "senior file and record clerk." At the time there were 105 titles for this job with salaries ranging from \$720 to \$2,400 a year.

For three years Congress debated various bills and in March 1923 passed the Classification Act. It applied only to the posts in Washington and not to "the field" as government offices outside the Washington headquarters are known. These were left to the departments until 1940 when under the Ramspeck Act the Civil Service Commission was given jurisdiction over the field positions.

What is the pay for federal jobs?

The 1923 classification plan assures equal pay- for equal work. Each job is analyzed and assigned to a class on the basis of its duties. The duties are standardized according to their class. Thus the name of the job comes from the name of the class to which it belongs. The commission considers the job as the entity and not the person doing it. It is the duties and responsibilities of the work involved that determine the class.

The classes and grades of federal jobs are in turn grouped into four services as the chart on page 14 shows.

CAF for clerical, administrative, fiscal, CP for clerical, protective, custodial, SP for subprofessional.

Notice that there are two ways to get more pay. One is an increase within grade, from the minimum or entrance rate to the maximum.

If the increase is granted, the worker is promoted to the next grade. The other is by promotion

to a vacancy in the next trade, P-1 to P-2 for example, when the worker is picked to assume the greater responsibility and difficulty of work of the higher grade.

As a measure, it might be mentioned that the college graduate generally enters at the CAF-5 or P-1 level and spends a year or more in that grade before moving to the next grade. Time spent within each grade lengthens, usually, as the worker goes up the ladder.

Many workers are in "upgraded" positions, especially the civilians working in arsenals and navy yards for the War and Navy departments. These industrial-type jobs are outside the formal



Job classification resulted in equal pay for equal work.

classification system. For them, job-classification and salaries are determined through wage-fixing procedures locally and are related to the rate paid in each place for comparable jobs in private enterprise.

Are all government jobs under civil service?

Almost all federal government positions except policy-making posts are now under civil service. (We will discuss state and city governments later.) This coverage of federal jobs was not achieved until a few years ago, however. Only about 10 percent of the federal jobs were covered at the time the

Executive Order was issued in 1945. It provided for the inclusion of additional positions in the civil service system. This was the first step in the process of bringing all federal jobs under competitive civil service.

United States Government Salary Tables
Effective on and after July 1, 1945

Service and Grade		Basic Pay Rates					Service and Grade	
P	CAF	Minimum		Intermediate		Maximum	CPC	SP
*	*	\$864	\$936.00	\$1,008	\$1,080.00	\$1,152	1	*
*	*	1,440-1,506	1,572.00	1,638	1,704.00	1,770	2	*
*	*	1,440-1,506	1,572.00	1,638	1,704.00	1,770-1,836	*	1
*	1	1,506-1,572	1,638.00	1,704	1,770.00	1,836-1,902	*	*
*	*	1,572-1,638	1,704.00	1,770	1,836.00	1,902	3	*
*	*	1,572-1,638	1,704.00	1,770	1,836.00	1,902-1,968	*	2
*	2	1,704-1,770	1,836.00	1,902	1,968.00	2,034-2,100	*	3
*	*	1,770-1,836	1,902.00	1,968	2,034.00	2,100-2,166	4	*
*	3	1,902-1,968	2,034.00	2,100	2,166.00	2,232-2,298	*	4
*	*	1,968-2,034	2,100.00	2,166	2,232.00	2,298-2,364	5	*
*	4	2,100-2,166	2,232.00	2,298	2,364.00	2,430-2,496	*	5
*	*	2,166-2,232	2,298.00	2,364	2,430.00	2,496-2,562	6	*
1	5	2,320-2,430	2,540.00	2,650	2,760.00	2,870-2,980	*	6
*	*	2,364-2,430	2,496.00	2,540	2,650.00	2,760-2,870	7	*
*	*	2,540-2,650	2,760.00	2,870	2,980.00	3,090-3,200	8	*
*	6	2,650-2,760	2,870.00	2,980	3,090.00	3,200-3,310	9	7
2	7	2,980-3,090	3,200.00	3,310	3,420.00	3,530-3,640	10	8
*	8	3,310-3,420	3,530.00	3,640	3,750.00	3,860-3,970	*	*
*	*	3,970-4,080	4,190.00	4,300	4,410.00	4,520-4,630	*	*
4	11	4,300	4,520.00	4,740	4,960.00	5,390	*	*
5	12	5,180	5,390.00	5,600	5,810.00	6,020	*	*
6	13	6,230	6,440.00	6,650	6,860.00	7,070	*	*
7	14	7,175	7,437.50	7,700	7,962.50	8,225	*	*
8	15	8,750	9,012.50	9,275	9,537.50	9,800	*	*
9	16	(1)	(1)	(1)	(1)	(1)	*	*

(1) Rates set by Congress.

It should be noted that the Civil Service Act has never been very popular politically. In the beginning, repeal bills were introduced in almost every Congress. Nearly every Congress has also made exceptions from civil service of new or even old positions.

World War II was the first major emergency period in which the federal civil service was fully maintained. During both the Spanish-American War and World War I and during the depression of the 1930's new positions were excepted. For example, coverage fell from what was the all-time high point of 80 percent in 1932 to 60 percent in 1938.



By presidential orders of 1938 and by the Ramspeck Act of 1940 and the subsequent executive orders of 1941 inclusions were made in the civil service which were not even contemplated in the act of 1888—certain employees of the federal courts, certain presidential appointees (postmasters), and unskilled laborers.

Should all government jobs be under civil service?

It is commonly agreed now that most government employees in order to be efficient and impartial need to be protected and prohibited from politics. But this does not apply to the political leaders. For a healthy and vigorous democracy political leadership is necessary. A president needs supporters, not enemies, in his cabinet to help carry out his policies and programs. Cabinet members need certain assistants to maintain political liaison with the Congress and with other departments. Hence, the very top positions in the executive branch of the government are normally excepted from civil service and politically filled. Political responsibility would be impossible otherwise.

There seems to be no good reason why judicial employees should not be under civil service. Judges are, of course, under a form of merit system, except that appointment is not by competitive test.

Furthermore, there seems to be no good reason why legislative employees should not be under civil service, with the exception of course of the Congressman himself and perhaps his confidential assistants.

What about the foreign service and TVA?

Neither the foreign service officers of the State Department nor the employees of the Tennessee Valley Authority are under the jurisdiction of the United States Civil Service Commission. But both agencies do have merit systems of their own. The [REDACTED] requires that the State Department select [REDACTED]. And the organic act of the Tennessee Valley Authority requires that it also observe merit principles in hiring and firing its employees. As a corporation, however, TVA is permitted to handle its own personnel without regard to the Civil Service Commission. Veterans preference, however, applies to both agencies.

This means that anyone interested in the foreign service of the State Department or in a job with TVA must take the examinations set up by those agencies. The tests of the U. S. Civil Service Commission serve almost all the rest of the government agencies.

Can a civil servant run for elective office?

If a federal civil servant wants to run for office, he has to resign first. As the history of American civil service indicates, this ban on politics is the product of years of partisan pulling and hauling. It is now clear that government service must be nonpartisan. Political activity is forbidden. This means that a federal civil service employee may not run for office—federal, state, or local—hold a office in a political club, serve on a partisan committee, or otherwise take an active part in a political campaign. He may not be associated with a publication that prints political articles.

What the federal civil servant cannot do is publicly try to influence other people's politics. He can vote as he chooses. He may express his political opinions in private. He can go to meetings, belong and contribute to political clubs. His role, however, must be that of spectator. Similar restrictions prevail in some—but not all—state and local civil service systems.



Federal employees may not engage in active party politics.

Must public employees pay political assessments?

It is against the law for a federal employee to solicit political funds from another. This prohibition has been carried to the point that solicitation cannot be carried on by *anyone* in a federal government building.

The Hatch Act of July 1940 makes it illegal for anyone receiving his pay even in part from federal funds to be politically active. This means state and local employees who work on cooperative programs such

as highways and agricultural aid, paid in whole or in part from federal money, cannot engage in politics. Cases involving just such employees come before the Civil Service Commission from time to time.

The United States Civil Service Commission enforces this provision of the Hatch Act. It has been possible only in the last four or five years to say truthfully that the great body of federal employees really are neutral politically and protected from partisan influence. The exceptions of course are the policy-determining positions.

What is personnel administration?

With the advent of the twentieth century, government became so large and so important that more freedom from spoils was not enough. Mere ability to do the -work was not enough. The title of President Tuft's Commission on Economy and Efficiency is indicative. The expense of the federal government was sufficient to make these considerations pressing. Government work had to be done as cheaply and effectively as possible.

There was another factor, too. As the industry and commerce of the country expanded, the government had to enter more actively into competition for employees with private enterprise. Salary, promotion opportunity, and satisfactory work conditions had to be provided. **Really as**

But by the 1940's all but the top policy
positions were included and the Civil Service Commission was testing for 8, 9, and in a few cases 10 thousand dollar jobs.

Modern civil service has to include all phases of personnel administration: recruitment, selection, placement, probation, training, promotions and transfers, retirement and disability benefits, salary and wage administration, efficiency ratings, employee relations, and removals. Furthermore, all these activities have to be carried on together. Insofar as they are successfully carried on, the government becomes a career service for the employee and an efficient service for the public which it serves.

The Civil Service Reform Act of 1978

The Civil Service Reform Act of 1978 (CSRA) was passed amid much publicity as one of the major domestic accomplishments of the Carter administration. It encompassed a wide variety of management reforms, including creation of the Office of Personnel Management (OPM), the Merit Systems Protection Board (MSPB), and the Federal Labor Relations Authority (FLRA). These new agencies replaced the former U.S. Civil Service Commission. In addition, the CSRA accomplished the following:

- Established the Senior Executive Service, composed of 8,000 top civil servants having less tenure but greater opportunity for productivity bonuses than under previous classification arrangements. This was seen as a step toward the widely-advocated reform of creating a senior management system in the United States, allowing top managers to be recruited and paid on a basis comparable to and competitive with the private sector.

- Established the Federal Labor Relations Authority (FLRA) as a federal analogue to the National Labor Relations Board in the private sector, including formalization in law of employees' rights to join unions and engage in collective bargaining on certain subjects.

- Established a system of productivity-related merit pay for GS-13 to GS-15 federal employees (those just below the SES levels), financing this through a reduction in previous comparability (cost of living) increases.

- Provided explicit protection for "whistle-blowers" and employees calling attention to government malpractices.

- Set up experiments giving line managers more control over personnel decisions.

Although Carter failed to achieve the degree of flexibility he sought for managers to fire incompetent employees and failed to make substantial inroads against veterans' preference, the Civil Service Act was a major accomplishment of his administration and a culmination of efforts of a generation of civil service reformers. Nonetheless, most recent evaluations by practitioners and scholars alike have seen the CSRA as relatively ineffective.

The Merit Systems Protection Board (MSPB)

The MSPB was created as a three-person, bipartisan board appointed by the president for seven-year, nonrenewable terms. MSPB members are insulated from postappointment presidential influence by a rule that their removal may be only for reasons of neglect of duty, inefficiency, or malfeasance in office. The president also appoints an MSPB special counsel for a five-year term. As with most other such appointments, the Senate must confirm the president's appointment of the counsel and board members, as well as the president's choice of the MSPB chairperson.

The MSPB was authorized by the 1978 act to adjudicate appeals for federal employees or job applicants. The MSPB, through its special counsel, was given the power to subpoena, the power to require agencies to investigate and report on whistle-blowers' allegations of agency malpractice, and the power to refer possible criminal acts to the Attorney General's office for

prosecution. The MSPB special counsel will, like ombudspeople, keep a public list of noncriminal matters referred to it by whistle-blowers. The MSPB was also given the following disciplinary powers: removal, grade reduction, suspension, reprimand, up to five years' debarment from federal employment, and up to \$1,000 in civil fines. Disciplinary action against presidential appointees, however, will be referred by the counsel to the president rather than to the MSPB.

The Office of Personnel Management (OPM)

The OPM was created as an executive agency headed by a presidentially appointed director serving a four-year term, removable by the president. OPM functions may also be delegated to the heads of executive agencies. The OPM is charged with administration of civil service laws, including the conducting of competitive examinations (a function the OPM cannot delegate). The OPM was also given supervision over the Senior Executive Service. Finally, it was given a major research and demonstration role in personnel work.

The Senior Executive Service (SES) was composed of non-presidentially appointed officials above the GS-15 level of the general personnel schedule and below Level III of the executive schedule. The FBI, CIA, DIA, NSA, GAO, Foreign Service and government corporations' employees are exempt from the SES. For other agencies, the OPM determines the number of SES positions every two years. SES positions need not be staffed by normal career civil service procedures, though the OPM is required to set criteria for judging SES candidates for career positions. Also, no more than 10 percent of all SES positions may be staffed by noncareer appointees and at least 70 percent of SES positions must be filled by individuals having five or more continuous years of civil service experience just before their SES appointment.

A key feature of the SES is the requirement that each agency set up an annual performance review system for each SES employee, in accord with OPM regulations. These performance reviews were to be the basis for either incentive bonuses or possible removal from the SES. Annually up to 5 percent of SES employees were to be named "meritorious executives" and given incentive bonuses of up to \$10,000. Up to 1 percent were to be designated "distinguished executives" and receive \$20,000 bonuses. Other SES employees were to receive up to 20 percent of their base pay for performance awards, though no more than 50 percent of an agency's SES employees could receive such an award in a given year.

The CSRA after Carter

The CSRA was intended to increase bureaucratic accountability to the executive branch. This "reform" to some quickly was received as "politicization" by others. Demands were soon raised to overthrow the CSRA in favor of the older independent-commission style of civil service organization, attempting to insulate civil servants from politics.

At the same time, a skeptical Congress cut the percentage of SES members eligible for bonuses from 50% to 25%, and the Reagan administration trimmed it further to only 20%. This spread cynicism throughout the senior civil service, a cynicism reinforced by inequities created by certain rulings of the Federal Labor Relations Authority. Again, calls arose for reuniting the functions of the OPM, FLRA and MSPB to achieve a coordinated personnel policy.

Overall, the CSRA had far less impact than anticipated. Budget processes and evaluation practices in the departments changed little. Later Reagan administration personnel reforms focused on efficiencies to be achieved in payroll automation and standardization and less on the broader issues raised by the proponents of the CSRA.

Source: D. Garson, by permission.

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Extension of term appointment

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Where to find information on this topic

For additional information on Term Employment, see 5 CFR Part 316.



Temporary Workers

Definition: *Employees who are not permanently hired but hired just for limited periods of time*

temporary [ˌtɛmpərərɪ ˌtɛmprərɪ]

adj

1. not permanent; provisional *temporary accommodation*

2. lasting only a short time; transitory *temporary relief from pain*

n pl -aries

a person, esp a secretary or other office worker, employed on a temporary basis Often shortened to **temp** [from Latin *temporarius*, from *tempus* time]

"A person who is furnished to the insured as a substitute to a permanent employee on leave or to meet seasonal or short-term workload conditions." (Reynolds, 2002)

"Temporary employees are excluded from most employee benefit plans, and employers are not required to pay withholding, social security, taxes, insurance or other benefits for contract employees who qualify as independent contractors." (Nowocki, 2002)

contingent worker

Definition

Temporary employee who is (1) hired for contingent work, (2) paid according to hours worked, and (3) draws no benefits that are commonly available to the regular employees.

If your business's staffing needs are seasonal--for example, you need extra workers during the holidays or during busy production periods--then temporary employees could provide the flexibility you need to grow. Temporary employees, as the name indicates, are hired only for limited periods of time. So they are only there when you need them for specific growth spurts.

Temps also have other advantages. Because most temporary help companies screen--and often train--their employees, entrepreneurs who choose this option stand a better chance of obtaining the quality employees they need.

In addition to offering pre-screened, pre-trained individuals, temporary can help contain your overhead and save time and money on recruiting efforts. The cost of health or unemployment benefits, workers' compensation insurance, profit-sharing, vacation time and other benefits doesn't come out of your budget, since many temporary help companies provide these resources to their employees.

A growing number of entrepreneurs use temporary workers part time at first to get a feel for whether they should hire them full time. As a result, many temporary help companies have begun offering an option, temporary-to-full-time programs, which allow the prospective employer and employee to evaluate each other. Temporary-to-full-time programs match a temporary worker who has expressed an interest in full-time work with an employer that has like interests. The client is encouraged to make a job offer to the employee within a predetermined time period if the match seems like a good one.

How do you make the most of your temporary workers once they've come on board? For one, "don't treat them any differently from your other employees," the American Staffing Association (ASA) advises. "Introduce them to your full-time workers as people who are there to help you complete a project, to relieve some overtime stress or to bring in some skills you might not have in house."

And don't expect temporary workers to be so well trained that they know how to do all the little (but important) things, such as operating the copier or answering the phone. "Spend some time giving them a brief overview of these things, just as you would any new employee," advises the ASA.

Another strategy for building a better relationship with your temporary workers is to plan ahead as much as possible so you can use the same temporary employees for an extended period of time--say, six months. Or try to get the same temporary employees back when you need help again. This way, they'll be more productive, and you won't have to spend time retraining them.

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temporary worker, an employee, hired through a specialized employment agency, who generally works less than a year on one assignment, regardless of the number of hours worked per week. Temporary workers (also called "contingency staffing" or "temps") are utilized to accommodate fluctuations in labor requirements. While these workers may have full-time positions with companies, they are paid by private employment agencies. Such agencies recruit, train, and place temporary staff, and the companies using the temporary workers pay fees to the agencies. Because these workers receive job-specific training, many of these jobs can eventually lead to permanent staff positions.

Temporary services grew from 0.6% of the U.S. workforce in 1982 to 2.7% in 1998, by which time it had become a \$60 billion industry; in 1999, about 2.9 million people were working in temporary jobs. Substantial growth in the use of temporary workers began in the late 1980s when changes in federal tax laws forced many employers to reclassify independent contractors as full-time employees, with the result that those firms owed large amounts of payroll taxes from previous years. As a consequence, companies instead began to use temporary workers placed by (and paid by) agencies. In addition, some corporations have laid off large numbers of employees (downsized) and then hired replacement workers through agencies; because temporary workers do not get benefits from the corporation, there is a cost savings to the firm. (Some agencies, however, provide benefits such as health insurance and vacation to the workers they place.) Controversy about benefits developed in the 1990s, when large companies such as Microsoft hired temporary workers to whom they provided many benefits but did not offer them benefits such as stock options. Several state action laws and federal decisions required Microsoft to offer back benefits to many of these workers.

~~XI~~

TITLE 5 > PART III > Subpart A > CHAPTER 23 > § 2301

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§ 2301. Merit system principles

How Current is This?

(a) This section shall apply to—

- (1)** an Executive agency; and
- (2)** the Government Printing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—

(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) In administering the provisions of this chapter—

(1) with respect to any agency (as defined in section 2302 (a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

United States Civil Service Commission

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The **United States Civil Service Commission** was created by the **Pendleton Civil Service Reform Act**, which was passed into law on January 16, 1883. The commission was created to administer the **civil service** of the **United States federal government** in response to the assassination of President **James Garfield** by **Charles Guiteau**, who is said to have been a rejected office seeker. Guiteau wanted a job via the **spoils system**, also known as patronage, and Chester Arthur didn't want to continue the system that killed his predecessor. The law required certain applicants to take the civil service exam in order to be given certain jobs; it also prevented elected officials and political appointees from firing civil servants, removing civil servants from the influence of political patronage and partisan favoritism.^[1]

Effective January 1, 1978, the commission was renamed the **Office of Personnel Management** under the provisions of **Reorganization Plan No. 2 of 1978** (*43 F.R. 36037, 92 Stat. 3783*) and the **Civil Service Reform Act of 1978**. In addition, several of its functions were spun off to the **Equal Employment Opportunity Commission** (EEOC) and the **Office of Special Counsel** (OSC).

[edit] Presidents of the commission

This list is incomplete; you can help by expanding it.

- **Theodore Roosevelt**, 1889-1895
- **John C. Black**, 1904-1913
- **Charles M. Galloway**, 1913-?^[2]
- **Thomas E. Campbell**, c. 1930-1932 ^[3] ^[4]
- **Harry Brown Mitchell**, 1933-1951 ^[5]
- **Alan K. Campbell**, 1977-1978

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Alan Campbell 1979–1981 Don Devine 1981–1985 Constance Horner 1985–1989 Constance Newman 1989–1993 Kay Coles James 2001–2005 Linda M. Springer 2005–2008 (Acting) Michael Hager 2008–2009 (Acting) Kathie Ann Whipple 2009

[edit] See also

- United States civil service

[edit] References

- [^] Creating America: A History of the United States, Rand McNally, p 238 (2003)
- [^] "Wilson Picks C.M. Galloway and G.R. Wales to Succeed Black and Washburn." (PDF). *New York Times*. May 23, 1913. <http://query.nytimes.com/mem/archive-free/pdf?res=9407EEDE143FE633A25750C2A9639C946296D6CF>. Retrieved 2009-07-25. "President Wilson will bring joy to many Democrats in Congress by his action to-day in practically making a clean sweep of the United States Civil Service Commission through accepting the resignation of Gen. John C. Black of Illinois, President of the commission, and William Washburn of New York, the Republican Commissioner."
- [^] <http://www.presidency.ucsb.edu/ws/index.php?pid=23216>
- [^] <http://jeff.scott.tripod.com/Campbell.html>
- [^] <http://searchworks.stanford.edu/view/8105086>

[hide]

v · d · e

Civil Service

(government employment)

Main Article	<u>Public</u> state sector · <u>administration</u> · <u>public services</u>
	<u>Civil</u> <u>commissioner</u> · <u>diplomatic service</u> · <u>foreign development reformation</u>
Civil Service of the World	<u>Australia</u> · <u>Bangladesh (Commission)</u> · <u>Canada (Commission, Civil Service Act 1918)</u> · <u>China (Imperial examination)</u> · <u>European Union</u> · <u>France</u> · <u>Germany (Beamter)</u> · <u>Hong Kong (Civil Service Bureau)</u> · <u>India (Admin service, Police service, Foreign service)</u> · <u>Ireland</u> · <u>Italy</u> · <u>Japan</u> · <u>Malaysia</u> · <u>New Zealand</u> · <u>Nigeria</u> · <u>Northern Ireland</u> · <u>Pakistan</u> · <u>Singapore (Commission)</u> · <u>Sri Lanka</u> · <u>United Kingdom (Minister, Commissioner, Diplomatic Service)</u>
United States civil service	<u>United States (WG, GS, FS, SES, ES)</u> · <u>U.S. Civil Service Reform</u> · United States Civil Service Commission · <u>Pendleton Civil Service Reform Act</u> · <u>Civil Service Reform Act of 1978</u> · <u>Spoils system</u> · <u>Merit system</u>
Category	<u>Government occupations</u> · <u>Civil service by country</u> · <u>UK Civil Service</u> · <u>US Civil Service</u> · <u>Civil Service of India</u> · <u>Civil service of Pakistan</u> · <u>Civil Service of Sri Lanka</u>

From: Chris Reichert (rcreichert@yahoo.com)
To: EllisFX@state.gov;
Date: Fri, June 18, 2010 10:17:02 AM
Cc:
Subject: LEGAL

Handwritten note in a circle:
practices

Freddie Ellis,

One of two questions answered, from previous email.

*Can accommodations be made for those applicants that previously applied myself included???

If the system problem or administrative error, then accommodations should be made. I applied and then you cancelled the applications, so i.e. through no fault of their own I am being made and those others that applied are - being made to reapply. Accommodations should be made for those that previously applied through advertised announcement.

Example: ie forwarding of qualified individuals information through the system; and just letting those individuals that applied to previous vacancy listing - upload appropriate documents or fax.

I feel that not accommodating, could be viewed as discriminatory employment practices.

Sincerely,

Chris Reichert

From: "Ellis, Freddie X" <EllisFX@state.gov>
To: Chris Reichert <rcreichert@yahoo.com>
Sent: Fri, June 18, 2010 9:44:11 AM
Subject: RE: legal; answers needed - human resource practices - department of state

Mr. Reichert,

This announcement was cancelled due to the fact that documentation (transcripts, DD-214, etc...) required for this position was not able to be uploaded by applicants. Thus it was cancelled and advertised again to correct that problem.

Thank you

Freddie Ellis
Human Resources Specialist
Department of State
Human Resources Shared Services
703-875-6341
703-875-5510 (fax)

From: Chris Reichert [mailto:rcreichert@yahoo.com]
Sent: Friday, June 18, 2010 11:34 AM

To: Ellis, Freddie X
Subject: legal; answers needed - human resource practices - department of state

Freddie,

Can you route this to the your legal department; I would like a further explanation on employment practices; i.e. cancelling of advertisements that qualified individuals applied for - myself included. Why was the job-INR-2010-0058, foreign affairs officer -1/2 job share postion - readvertised.

Human resource specialist Freddie Ellis, stated there with no changes to the job duties - exact same job.

Why is the job being readvertised? Why aren't accomodations being made for those individuals that applied under original announcement. Legal definition of practices needed. Please forward to the legal.

Sincerely,

Chris Reichert

From: "Ellis, Freddie X" <EllisFX@state.gov>
To: Chris Reichert <rcreichert@yahoo.com>
Sent: Fri, June 18, 2010 5:30:18 AM
Subject: RE: intelligence - question - is the job classification the same as prior job application?

It's the exact same job.

Freddie Ellis
Human Resources Specialist
Department of State
Human Resources Shared Services
703-875-6341
703-875-5510 (fax)

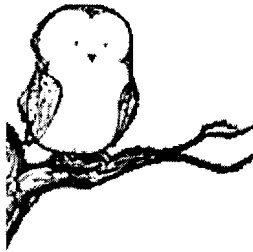
From: Chris Reichert [mailto:rcreichert@yahoo.com]
Sent: Thursday, June 17, 2010 5:00 PM
To: Ellis, Freddie X
Subject: intelligence - question - is the job classification the same as prior job application?



Freddie,

I needed to clarify you might have misunderstood my question. Job that I applied for and the announcement cancelled.

Is that job; that is being re-advertised, the same job that I applied for? Or



is the classification different?

Sincerely,

Chris Reichert

From: "Ellis, Freddie X" <EllisFX@state.gov>
To: Chris Reichert <rcreichert@yahoo.com>
Sent: Wed, June 16, 2010 12:35 27 PM
Subject: RE: intelligence - question - if job duties the same - application still considered?

Mr. Reichert,

To be considered for this position you would have to reapply using the same procedures as the last vacancy. The applications do not carry over from one vacancy to another.

Thank you

Freddie Ellis
Human Resources Specialist
Department of State
Human Resources Shared Services
703-875-6341
703-875-5510 (fax)

From: Chris Reichert [mailto:rcreichert@yahoo.com]
Sent: Wednesday, June 16, 2010 10:39 AM
To: Ellis, Freddie X
Subject: intelligence - question - if job duties the same - application still considered?

Ellis,

Since I did apply and now the Department of State is cancelling and readvertising the job under a different id number. Legally, would my application still be valid. Similar to an advertisement from a sales point, ie if won product is advertised, is the advertisement cancelled, business world. Anyhow, just want clarification, maybe you could ask someone at legal. Is the job the same, just a different number?

If the duties did not change, can my application still be considered

From: "EllisFX@state.gov" <EllisFX@state.gov>
To: rcreichert@yahoo.com
Sent: Tue, June 15, 2010 1:55:41 PM
Subject: Thanks For Applying

Dear CHRIS REICHERT

Thank you for your interest in employment opportunities with the